

REMARKS

Claims 1-19 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1 and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Handwerker (U.S. Pat. No. 4,413,029). This rejection is respectfully traversed.

Applicant notes that Claim 1 calls for a plurality of hold-downs that are coupled to a non-rigid base. Applicant submits that Handwerker does not teach or suggest hold-downs.

More specifically, the examiner has cited reference numeral 53 of Handwerker as corresponding to the hold-downs of Claim 1. Applicant notes, however, that Handwerker describes reference numeral 53 as corresponding to "ballast material", "such as a layer of pebbles or crushed rock" that is applied to the skirt 52. Applicant notes that such ballast is not coupled to a non-rigid base as is recited in the claim. As such, Applicant submits that Handwerker does not teach or suggest each limitation of Claim 1 as arranged in the claim. Accordingly, Applicant respectfully requests that the examiner reconsider and withdraw the rejection of Claim 1 under 35 U.S.C. §102(b).

Regarding Claim 17, Applicant notes that the claim recites "tensioning the base after it has been secured to the ground *to adjust a size, a shape or both the size and the shape of a perimeter of the base so that it conforms to a contour of the ground.*" Applicant submits that Handwerker does not teach or suggest these limitations.

More specifically, Handwerker teaches that a cover C is positioned over a mound of material in substantial conformance with the shape of the mound and that a ballast material 53 is piled onto the outer edges of the cover. Applicant notes that neither the size nor shape of the perimeter of the cover is adjusted via tensioning of the cover. Moreover, the use of weights T in a central part of the cover does not affect the size or shape of the perimeter of the cover. As such, Applicant submits that Handwerker does not teach or suggest each limitation of Claim 17 as arranged in the claim. Accordingly, Applicant respectfully requests that the examiner reconsider and withdraw the rejection of Claim 17 under 35 U.S.C. §102(b).

Claims 17-19 stand rejected as being anticipated by Ireland (U.S. Pat. No. 1,321,747). This rejection is respectfully traversed.

Applicant submits that Claim 17 recites a protective ground mat having a non-rigid base. Applicant submits that Ireland does not teach or suggest a method that involves a protective ground mat.

More specifically, Ireland appears to relate to a crop cap that employs a rigid frame (shown in Figure 5) and a fabric covering 12. Applicant submits that as a crop cap is not a protective ground mat, Ireland cannot teach or suggest each of the limitations of Claim 17 as arranged in the claim. Accordingly, Applicant respectfully requests that the examiner reconsider and withdraw the rejection of Claim 17 under 35 U.S.C. §102(b).

Applicant notes that as Claims 18 and 19 depend from Claim 17, these claims should be in condition for allowance for at least the reasons set forth for Claim 17, above.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-4, 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ireland in view of Rowe et al. (U.S. Pat. No. 369,616). This rejection is respectfully traversed.

Applicant notes that Claim 1 is directed to a protective ground mat that may be employed to prevent salt-damage to the roots of a plant. In contrast, Ireland is related to a crop cap that is to be disposed over a plant and Rowe et al. is directed to a tree-protector that is to be disposed around the trunk of a tree. Applicant notes that neither Ireland nor Rowe et al. disclose a protective ground mat, nor do they relate to the field of the present invention or a field reasonably pertinent to the resolution of the problem being solved by the present invention. Consequently, neither Ireland nor Rowe et al are analogous art and cannot be properly cited as prior art in an obviousness rejection. *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992).

Applicant further notes that the combination of Ireland and Rowe et al. does not present a prima facie case of obviousness. For example, neither Ireland nor Rowe et al. teach or suggest a protective ground mat having a non-rigid base or a plurality of tensioners having a first portion that is fixedly coupled to the non-rigid base and a second portion that may be selectively coupled to the first portion to adjust a distance

between a pair of the hold downs to thereby adjust a size, a shape or both the size and the shape of a perimeter of the non-rigid base.

Accordingly, Applicant submits that the examiner has not presented a prima facie case of obviousness and respectfully requests that the examiner reconsider and withdraw the rejection of Claim 1 under 35 U.S.C. §103(a).

Applicant notes that as Claims 2-4, 9 and 10 depend from Claim 1, these claims should be in condition for allowance for the reasons set forth for Claim 1, above.

Claims 5-8 and 11-15 stand rejected as being unpatentable over Ireland as modified by Rowe et al. as applied to Claims 1, 2 and 4 above, and further in view of Allen (U.S. Pat. No. 4,700,507). This rejection is respectfully traversed.

Applicant notes that Allen, like Rowe et al., is directed to a tree protector and as such, constitutes non-analogous art that cannot be cited in an obviousness rejection (see above).

Applicant submits that Claims 5-8 and 11-15 depend from Claim 1 and should be in condition for allowance for at least the reasons set forth for Claim 1, above.

Claim 16 stands rejected as being unpatentable over Ireland in view of Rowe et al. and Allen. This rejection is respectfully traversed.

Applicant notes that Claim 16 is directed to a protective ground mat having a non-rigid base, a plurality of hold-downs and a plurality of tensioners each having a first portion that is fixedly coupled to the non-rigid base and a second portion that may be selectively coupled to the first portion to adjust a distance between an associated pair of

the hold-downs to thereby adjust a size, a shape or both the size and the shape of a perimeter of the non-rigid base.

Applicant submits that Ireland, Rowe et al. and Allen are non-analogous art that cannot be cited in an obviousness rejection (see above). Moreover, Applicant submits that the combination of Ireland, Rowe et al. and Allen does not teach or suggest each element of Claim 16 as arranged in the claim, such as a non-rigid base or a plurality of tensioners having a first portion that is fixedly coupled to the non-rigid base and a second portion that may be selectively coupled to the first portion to adjust a distance between a pair of the hold downs to thereby adjust a size, a shape or both the size and the shape of a perimeter of the non-rigid base. Accordingly, Applicant submits that the examiner has not presented a prima facie case of obviousness and respectfully requests reconsideration and withdrawal of the rejection of Claim 16 under 35 U.S.C. §103(a).

APPLICANT INITIATED INTERVIEW

The undersigned attorney notes that the Office has provided Applicant with five Actions and that the Applicant has filed two Notices of Appeal in the present application. Given the PTO's mandate for the timely and efficient examination of applications and the limited amount of time that is available to the examiner to handle an application generally, the undersigned attorney requests an interview with the examiner and the examiner's supervisor so that prosecution of the present application may be wrapped up as efficiently as possible. The undersigned attorney requests that the examiner contact him with two dates and times that would be acceptable to the examiner and the

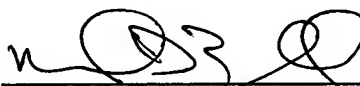
examiner's supervisor. Applicant has attached a form PTOL-413A (Applicant Initiated Interview Request Form).

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: February 28, 2007

By: 
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